

Virginia Stormwater Management Program Permit Regulations

**Welcome
Technical Advisory Committee**

Session Objectives

- To become familiar with background/expertise of others on Committee
- To become familiar with historical background, regulations as they currently exist, & Code requirements for making changes to current stormwater management program
- Review questions/issues that have been raised by stakeholders & DCR staff, & identify any additional ones not currently identified
- Identify technical components that need to be addressed in statewide management program relative to water quality & water quantity on statewide basis
- Identify regulation drafting & process issues for next session

The Plan

- **Introductory Remarks – Orientation to Session**
 - Introductory remarks
- **Review – objectives, agenda, participation guidelines**
 - Introductions
 - Role of DCR staff
- **The Charge**
- **Background, NOIRA Review & Program Overview Presentations**
 - The History – Jack Frye
 - Regulatory Process & NOIRA – David Dowling
 - Stormwater Program, the law, current regulations – Lee Hill

Continued...

...Continued **The Plan**

- **General Brainstorming/Discussion of Key Issues**
 - Part II (Local Program Technical Water Quality & Quantity Criteria)
 - Part III (Local Program Administrative & Delegation Procedures & Requirements)
 - Part XIII (Fees)
 - Other issues
- **Discussion – Drafting & Review Process**
- **Review – Part II & further Discussion of Technical Criteria**
- **Next Steps & Closure**

Participation Guidelines

- Take care of your own needs
- Focus—program to be brought into compliance with state code
- Work toward consensus
- Search for common ground keeping in mind diversity of state & local governments' resources
- Share airtime
- Side conversations to a minimum
- Electronic devices on stun/mute
- Return from breaks on time
- Work to stay present, focused, & conscious

Introductions

Please share your:

- Name
- Role/title
- Affiliation/agency/organization
- Your interest (professionally, agency/organizational interest) in the stormwater management program & this regulatory action

Introductions (Observers)

Please share your:

- Name
- Organization/affiliation

Committee Charge

Develop in coordination & cooperation with Environmental Protection Agency, amendments to Virginia Soil & Water Conservation Board's Virginia Stormwater Management Program (VSMP) Permit Regulations (§ 4 VAC 50-60 et seq.) to address:

- Minimum water quality/quantity criteria & administrative functions that local stormwater management program must contain to receive program delegation by Board for administration of VSMP or portions thereof
- Administrative procedures by which Board makes delegation determinations
- DCR program administration & oversight procedures
- Revisions to statewide stormwater permit fee schedule to level sufficient to carry out stormwater management program by localities & Department

Procedure – Brainstorming/Discussion of Key Issues

- Presentation
- Members identify key issues
- Key Issues are collected & recorded
- Public comment/DCR staff input reviewed
- Additional issues identified (possibly)
- Above procedure will be used for each section: Part II, Part III, Part XIII.

Part II (Local Program Technical Water Quality & Quantity Criteria)

- BMP table removal
- Make sure we include all necessary Bay Act language
- LID issues incorporation
- Pollutants outside of keystone pollutants (P)
- No net increase in P over the existing average land condition
- Separate section for water quality
- Move situations to handbook or clean up [60]
- Eliminate planning area or define better [90]
- Deed restriction on platte requirement-indicating a facility at a location & maintenance agreement

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...Continued **Part II**

- BMPs as part of a homeowners association; no money to fix; permission for locality to charge for maintenance
- Can drainage structures be concrete over steel
- Build on Stormwater Water maintenance/service area concept
- Developer put money/bonding for long term maintenance irrevocable credit (bond)
- Plan approval require developer to indicate how maintenance would be handled
- Review of endangered & threatened species in General Permit
- Dam Safety compliance
- Confusion on how to evaluate; how to size for LID

■ Continued

...Continued **Part II**

- Anti degradation statement [DEQ had language]
- County by county average land cover conditions/specifications—performance based—statement in regulations/chart in manual annually defining average land cover area
- Limits on acreage for modified rational method [50B]
- What store do we design to
- Application of pesticides in or around BMPs; Certified applicators; chemicals approved for use
- Storage of fertilizers (ex. A superstore parking lot)
- Duplicate inspections [permit holder; locality] set inspection regulations

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Part II

- Add TMDL statement
- Better definition of adequate channel to address karst
- Karst loss
- Impoundment or BMP development in karst
- Sump pump discharges; be included in modeling
- Sale of credits on oversized BMPs in different watersheds—needs to be tightened up
- Stream perenniality as it relates to BMP location (currently being done on antiquated quads)
- Riparian buffers requirements
- Regional ponds; neglecting channel in between
- Requiring easements for drainage ways & BMPs (address through adequate channel)

Part III (Local Program Administrative & Delegation Procedures & Requirements)

- Develop local program minimum criteria
- Delegation procedures
- DCR oversight procedures
- DCR program administration role as program implementer for non-opt-in localities
- Stipulate sufficient staff to operate a program
- Discrepancy between localities 60 day & 30 day—plan review; E&S 45 & state 60
- Revocation of permits by a locality
- Who handles individual permits
- Maintenance/financial security for BMPs
- Reporting & tracking of inspections; enforcement actions, deadlines, required info format & intervals

■ Continued...

...Continued **Part III**

- Long term inspection of BMPs
- GPS locations of BMPs
- Who permits a local government's project
- Who issues next BP—(DCR): local ordinance revisions
- Archiving requirements/plan; how long to keep inspection records
- Notification system for expediting individual permits + for 5 yr.
- What teeth do we give localities for enforcement
- Can a locality enforce against itself? How does sovereign immunity work under the Dillon rule?
- Who handles Federal & State agency projects—DCR
- How are fines handled
- Look at exception & exemptions—some need better definition before delegating [140]

■ Continued...

...Continued **Part III**

- Is there a certification program for administrators, inspections, etc
- Do the Plan developers & reviewers need to be an engineer?
- Board develop a schedule of civil penalties
- BMPs in series
- Converting basin from E&S to SW before stabilization
- How do we look at utility & linear projects
- Requirements for maintaining documentation for inspections & enforcement
- Authority for orders & administrative actions; can not go to the Courts on all actions
- Changing approved Stormwater plans in the fields

Part XIII (Fees)

- 2,500 sq. ft. to 1 acre in Bay areas
- Consider a fee per each additional acre above some threshold (5 acres?)
- Annual maintenance fee for both construction & MS4 GP
- How to deal with a permit at the end of 5 years (does it require a new permit of \$500)
- Regional versus statewide fees
- MS\$ permit fees, are they enough?
- Split 70%/30% issue

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Continued... Part XIII

- Fees only for program implementation
- Stormwater proffers
- How to collect fee
- How to transmit fees to state
- How accounting works
- Fees high enough to be attractive to localities
- Ensure fees are spent on program administration

Other Issues

- Construction General Permit
 - Need for E&S Plan
 - Plan approval process
 - Need for SWPPP
- TMDL language on Registration Statement
- Registration statement simplification/user friendly [if we do not need the info, why do we request (provided federal law does not require)]
- Requirement to list BMPs (perhaps on the Notice of Termination)
- State project criteria [4VAC50-60-160]
- Timing for submittal of application to when project can commence [currently immediately—Consider 30 days]
- Approved SW plan as part of a SWPPP

The Question:

- What are the additional technical components that need to be addressed in a stormwater management program relative to water quality & quantity that will be implemented statewide?

Meeting Effectiveness/Efficiency

- Things I would suggest be done differently at future meetings to improve the quality of the sessions
- What I need from DCR in order to be prepared to participate effectively in the sessions

Future Meeting Dates (all 9:00 AM-4:00 PM)

- Thursday, May 18
- Thursday, June 8
- Tuesday, June 20
- Tuesday, July 11
- Tuesday, July 25

Agenda – May 18

- Continuation of work on Part II
- Start of Work – Part III